Remarks

Claim Amendments

Claims 95, 96 and 101-104 and 111 were pending in this case and had previously been subject to a restriction requirement. In their response filed on November 16, 2006, Applicants had elected Group k, peptide Fel 31-2 (residues 14-39 of SEQ ID NO:6), ***with traverse***, and had further requested rejoinder of at least Groups b, c, d, f, j, l, m, and n. However, the Examiner has maintained the restriction requirement and has indicated that rejoinder may be considered upon a determination of the allowable subject matter.

By way of this amendment, claims 95, 96, 102, 103, 104 and 111 have been amended and claim 101 has been canceled without prejudice. Support for the claim amendments can be found in the originally filed specification, for example, at least at page 29, lines 19-23. *No new matter has been added.* Upon entry of the present amendment, claims 95, 96, 102-104 and 111 will remain pending. Any amendments to and/or cancellation of the claims should in no way be construed as an acquiescence to any of the Examiner's rejections and were done solely to expedite the prosecution of the application. Applicants reserve the right to pursue the claims as originally filed in this or a separate application(s).

Obviousness-Type Double Patenting Rejection

Claims 95, 96, 101-104 and 111 have been rejected as allegedly being unpatentable over claims 1-33 of U.S. Patent No. 6,019,972 and over claims 1-24 of U.S. Patent No. 5,547,669. Applicants respectfully submit, while in no way admitting that the present claims are obvious over claims 1-33 of U.S. Patent No. 6,019,972 and over claims 1-24 of U.S. Patent No. 5,547,669, that, upon allowance of the present claims, Applicants will consider submitting a terminal disclaimer in compliance with 37 C.F.R. 1.321(b) and (c), if appropriate, which will obviate the rejection.

Anticipation Rejection Under 35 U.S.C. §102(b)

Claims 95, 96, 101-104 and 111 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Leiterman *et al. J. Allergy Clin. Immunol.*, 74:147-153 (1984) (hereinafter referred to as "*Leiterman*") as evidenced by UniProt_03 alignment with Accession No. P30440, and

as further evidenced by Harlow & Lane, Cold Spring Harbor Laboratories, pp427 (1988) (see 12/13/06 Office Action at page 4). In particular, the Examiner is of the opinion that "Leiterman *et al.* explicitly teaches "Cat allergen 1" which consists of amino acids 3-111 of Applicants' SEQ ID NO: 6. . . and its biochemical, antigenic and allergenic properties." (*See* Office Action mailed 12/13/06 at page 6).

Applicants traverse this rejection for the following reasons. For a prior art reference to anticipate a claimed invention under 35 U.S.C. §102, the prior art reference must teach ***each and every element*** of the claimed invention. See, *Lewmar Marine v. Barient* 827 F.2d 744, 3 USPQ2d 1766 (Fed. Cir. 1987). Further, to serve as an anticipation reference in an inherency rejection, the reference must make clear that the missing descriptive matter is ***necessarily present*** in the thing described in the reference. *Schering Corporation v. Geneva Pharmaceuticals, Inc.*, 339 F.3d 1373, 1376 (Fed. Cir. 2003).

Applicants submit that *Leiterman* fails to teach each and every limitation of independent claims 95 and 111 and claims depending therefrom, either explicitly or inherently, as explained below.

To begin with, Applicants note that contrary to the Examiner's assertion, *Leiterman* fails to disclose any sequence information at all for the cat allergen 1 protein, let alone the amino acid sequence which consists of amino acid residues 3-111 of SEQ ID NO:6. Accordingly, *Leiterman* ***does not*** explicitly teach the amino acid sequence which consists of amino acid residues 3-111 of SEQ ID NO:6.

Leiterman also fails to inherently disclose the amino acid sequence which consists of amino acid residues 3-111 of SEQ ID NO:6. Specifically, the Examiner appears to rely on the sequence information set forth in UniProt Accession No. P30440, published after the Applicants' priority date, as allegedly disclosing the sequence of the cat allergen 1 protein described in *Leiterman.* Applicants, however, note that based on the teachings of *Leiterman*, one of ordinary skill in the art would not have arrived at a conclusion that the cat allergen protein 1 of *Leiterman* necessarily consists of amino acid residues 3-111 of SEQ ID NO:6. For example, *Leiterman* only describes "***partial purification*** of cat allergen 1" (see, *e.g.*, the abstract and page 152, second column, first full

paragraph). *Leiterman* further discusses that "cat allergen 1 has a MW of approximately 35, 000 and exists in ***three different forms*** that differ slightly in pI" (see, *e.g.*, page 147, column 2). Accordingly, not only does the cat allergen 1 taught by *Leiterman* appear to not be free of all other house dust mite proteins, but it also appears to exist in at least three different forms.

Applicants submit that the description of UniProt Accession No. P30440, a copy of which is attached herewith as Appendix A, merely lists *Leiterman* as one of the references. However, there is nothing in the description which unequivocally teaches or suggests that the amino acid sequence disclosed therein is necessarily that of the partially-purified cat allergen 1 of *Leiterman.* In fact, based on the teachings of *Leiterman,* which only discloses partial purification of the cat allergen 1 protein and also teaches that the cat allergen 1 protein exists in at least three forms, one of ordinary skill in the art would not have concluded that the partially purified cat allergen 1 of *Leiterman* necessarily includes the amino acid sequence set forth in UniProt Accession No. P30440.

In view of the foregoing, Applicants submit that *Leiterman* fails to teach or suggest, either explicitly or inherently, amino acid residues 3-111 of SEQ ID NO:6 of the subject application.

Notwithstanding the foregoing and solely in the interest of expediting allowance of the claims, Applicants have amended the claims such that they are now directed to compositions comprising polypeptides which either comprise the amino acid sequence set forth in SEQ ID NO:6, polypeptides which are about 30 amino acid residues in length and include amino acid residues 14-39 of SEQ ID NO:6, or polypeptides consisting of amino acid residues 14-39 of SEQ ID NO:6. Accordingly, Applicants submit that the foregoing rejection has been rendered moot and respectfully request that this rejection be reconsidered and withdrawn.

CONCLUSION

In view of the above amendments and remarks, it is respectfully submitted that this application is in condition for allowance. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicants' Attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at (617) 227-7400.

Applicants believe that no additional fee is due with this paper; however, should there be any deficiencies in the fee, the Commissioner is hereby authorized to charge such fee to the Deposit Account No. 12-0080, referencing Attorney Docket No. IMI-044DV3CNRCE2.

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Respectfully submitted,

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